

Little Falls Township Public Schools

560 Main Street, Little Falls, New Jersey 07424

January 12, 2016

Letter of Appeal

Federal Communications Commission
Office of the Secretary
9300 East Hampton Drive
Capitol Heights, MD 20743

CC Docket No 02-6

Request for Review of "Administrator's Decision on Appeal – Funding Year 2014-2015" regarding FRNs 2703924, 2704784, and 2704877, issued on November 19, 2015

Authorized person who can best discuss this Appeal with you

Richard Larson
eRate 360 Solutions, LLC
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Parsippany, NJ 07054

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(preferred mode of contact)

Application Information

Entity Little Falls Township School District
Billed Entity Number 122823

<u>Form 471 #</u>	<u>FRN</u>	<u>SPIN</u>	<u>Service Provider</u>	<u>Original Funding Commitment</u>	<u>486 NL Funding Commitment</u>
985116	2703924	143013604	Cablevision Lightpath of NJ	\$17,424.00	\$11,616.00
991002	2704784	143023377	Line Systems, Inc.	\$2,793.12	\$1,862.08
991002	2704877	143000677	Verizon Wireless	\$1,716.00	\$1,144.00
TOTALS				\$21,933.12	\$14,622.08

Document Being Appealed: "Administrator's Decision on Appeal – Funding Year 2014-2015" regarding FRNs 2703924, 2704784, and 2704877, issued on November 19, 2015¹

ADL Item Being Appealed (same for all three FRNs): "Our records show that your appeal was postmarked more than 60 days after your FCC Form 486 Notification Letter was issued Federal Communications Commission (FCC) rules require applicants to postmark appeals within 60 days of the date on the decision letter being appealed. FCC rules do not permit the Universal Service Administrative Company (USAC) to consider your appeal."

Request for Review:

Little Falls Township School District (the District) respectfully requests the Commission to instruct the Schools and Libraries Division (SLD) to consider our appeal of 10/28/2015.²

¹ Letters from Schools and Libraries Division, Universal Service Administrative Company to Richard Larson, eRate 360 Solutions (consultant for Little Falls Township School District), dated Friday, November 19, 2015, re: appeal dated October 28, 2015 regarding FRNs 2703924, 2704784, and 2704877.

² Letter of Appeal from Little Falls Township School District to Schools and Libraries Division, re: "FCC Public Notice - Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company (DA 15-1105, released 9/30/2015) regarding Little Falls Township School District, Application Nso. 985116, 991002, Request for Waiver, CC Docket No. 02-6 (filed May 26, 2015)", dated 10/28/2015.

The District is convinced that SLD has misapplied the FCC rule which requires an appeal to be filed within 60 days of the decision being appealed. The District asserts that the 60-day rule should have been applied to the 9/30/2015 date of the FCC's "Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company", and not to the "Form 486 Notification Letter" dated 3/25/2015.

In our appeal to SLD dated 10/28/2015 the District explained to SLD that our initial appeal, submitted on 5/25/2015, was to the FCC in the belief that it required a waiver of FCC rules which could only be granted by the Commission.³ When the FCC advised us on 9/30/2015 that our appeal did not require an FCC waiver but instead should have been submitted to SLD,⁴ the District submitted its appeal to SLD on 10/28/2015.

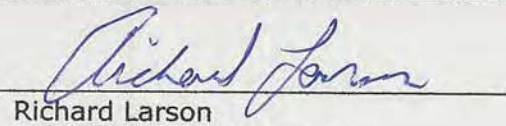
The District respectfully asks the Commission to allow us our "day in court."

- We presented our appeal, a Request for Waiver of the rules governing the deadline to submit a Form 486, to the Commission, but were advised that it was not truly a Request for Waiver. It does not appear that the Commission considered the merits of our waiver request per se, but only its categorization as Review versus Waiver.
- We then presented our appeal to the SLD on 10/28/2015, only to have them refuse to consider it because it was submitted more than 60 days after the 3/25/2015 Form 486 Notification Letter. When we questioned the decision as possibly being an error, we were told by SLD's Appeals Manager that "FCC has already made their decision and did not Remand the appeal to us."⁵

We are perplexed that neither the FCC nor the SLD has a yet considered the merits of our appeal. The District presented the appeal initially to the FCC in a good-faith belief that it was a bona fide Request for Waiver. If we erred in our judgement of the FCC's appeal rules, we ask that the Commission consider that our submission of the appeal on 5/25/2015 was timely (the Monday following the Sunday, 5/24/2015, nominal 60-day deadline), and that we submitted our appeal to the SLD 28 days after the FCC's 9/30/2015 decision. The District has acted within the rules governing timely submission of E-rate appeals, but is being penalized for not realizing that our "Request" was for "Review" and not "Waiver".

We thank the Commission for its consideration in this matter; we are available to respond to questions or to provide any further information requested by the Commission in its review of this appeal.

Authorized signature for this Appeal ⁶



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³ Per the "Report and Order and Further Notice of Proposed Rulemaking" (FCC 14-99, adopted 7/11/2014), paragraph 252: "USAC cannot waive our rules; therefore parties seeking only a waiver of our rules are not governed by this requirement, but instead must seek relief directly from the Commission or the Bureau."

⁴ FCC Public Notice - Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company (DA 15-1105, released 9/30/2015), p.1, footnote 3.

⁵ Email from Sumita Mukhopadhyay, SLD Appeals Manager, to Richard Larson, eRate 360 Solutions, subject "Error in Appeal ADLs for two appeals - Gilroy Unified School District & Little Falls Township School", dated 12/16/15.

⁶ "Letter of Agency" from Michael Leary, Interim Business Administrator of Little Falls Township School District, authorizing employees of eRate 360 Solutions, LLC, to perform e-rate services on behalf of the District.



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2014-2015

November 19, 2015

Richard Larson
eRate 360 Solutions LLC
322 Route 46W, Suite 280W
Parsippany, NJ 07054-0000

Re: Applicant Name:	LITTLE FALLS TWP SCHOOL DIST
Billed Entity Number:	122823
Form 471 Application Number:	985116
Funding Request Number(s):	2703924
Decision Letter Date:	March 25, 2015
Date Appeal Postmarked:	October 28, 2015
Your Correspondence Received:	October 28, 2015

Our records show that your appeal was postmarked more than 60 days after the date your FCC Form 486 Notification Letter was issued, as shown above. Federal Communications Commission (FCC) rules require applicants to postmark appeals within 60 days of the date on the decision letter being appealed. FCC rules do not permit the Universal Service Administrative Company (USAC) to consider your appeal.

If you believe there is a basis for further examination of your application, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be postmarked within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found under the Reference Area/"Appeals" of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

Schools and Libraries Division
Universal Service Administrative Company

cc: William Petrick



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2014-2015

November 19, 2015

Richard Larson
eRate 360 Solutions, LLC
322 Route 46W, Suite 280W
Parsippany, NJ 07054-0000

Re: Applicant Name:	LITTLE FALLS TWP SCHOOL DIST
Billed Entity Number:	122823
Form 471 Application Number:	991002
Funding Request Number(s):	2704784, 2704877
Decision Letter Date:	March 25, 2015
Date Appeal Postmarked:	October 28, 2015
Your Correspondence Dated:	October 28, 2015

Our records show that your appeal was postmarked more than 60 days after the date your FCC Form 486 Notification Letter was issued, as shown above. Federal Communications Commission (FCC) rules require applicants to postmark appeals within 60 days of the date on the decision letter being appealed. FCC rules do not permit the Universal Service Administrative Company (USAC) to consider your appeal.

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Schools and Libraries Division
Universal Service Administrative Company

cc: William Petrick

Richard Larson
eRate 360 Solutions, LLC
322 Route 46W, Suite 280W
Parsippany, NJ 07054-0000

Billed Entity Number: 122823
Form 471 Application Number: 991002
Form 486 Application Number:

Little Falls Township Public Schools

560 Main Street, Little Falls, New Jersey 07424

October 28, 2015

Letter of Appeal

Schools and Libraries Division – Correspondence Unit
30 Lanidex Plaza West
PO Box 685
Parsippany, NJ 07054-0685

Re: FCC Public Notice - Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company (DA 15-1105, released 9/30/2015) regarding Little Falls Township School District, Application Nos. 985116, 991002, Request for Waiver, CC Docket No. 02-6 (filed May 26, 2015)

Authorized person who can best discuss this Appeal with you

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Application Information

Entity Little Falls Township School District
Billed Entity Number 122823

Form 471 #	FRN	SPIN	Service Provider	Original Funding Commitment	486 NL Funding Commitment
985116	2703924	143013604	Cablevision Lightpath	\$17,424.00	\$11,616.00
991002	2704784	143023377	Line Systems, Inc.	\$2,793.12	\$1,862.08
991002	2704877	143000677	Verizon Wireless	\$1,716.00	\$1,144.00
TOTALS				\$21,933.12	\$14,622.08

In their notice of 9/30/2015, the FCC determined that this appeal *"properly belongs before USAC pursuant to Commission rules."*¹ In compliance with the FCC's decision, we are submitting this appeal to SLD for their consideration. Please note that this appeal was originally submitted to the FCC in the belief that it required a waiver of FCC rules which could only be granted by the Commission.

Appeal:

Document Being Appealed: Form 486 Notification Letter – Funding Year 2014, re Little Falls Township School District, Form 486 Application Number 1059753, issued March 25, 2015²

Decision (same for all FRNs): Service Start Date – 11/03/2014

Service Start Date Change Explanation(same for all FRNs): 120-Day 486 Deadline

Little Falls Township School District (the District) requests that the SLD accept the 7/01/2014 Service Start Dates (SSD) for FRNs 2703924, 2704784, and 2704877 requested

¹ FCC Public Notice - Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company (DA 15-1105, released 9/30/2015), p.1, footnote 3.

² Letter from Schools and Libraries Division, USAC, to Bert Garofano c/o Roberto Rubino, consultants for Little Falls Township School District, entitled "Form 486 Notification Letter – Funding Year 2014", re Form 486 Application Number 10159753, issued March 25, 2015.

on Form 486 # 10159753, thereby restoring the full \$21,933.12 of funding for these three FRNs. The District presents significant mitigating circumstances that led to the late filing of Form 486 # 10159753, and respectfully requests the SLD not to deny us access to the \$7,311.04 of funds denied by SLD's decision in its Form 486 Notification Letter.

Mitigating Circumstances:

Little Falls Township School District (the District) has an ongoing contract with the Passaic County Educational Services Commission (PCESC) for technical and administrative support of virtually all aspects of technology, to include the entire E-rate process. The former Technology Consulting Director of PCESC, Andres Ospina, was responsible for preparation and filing of all E-rate applications and forms as well as compliance with SLD procedures. The District staff had only a very limited knowledge of the E-rate process, especially the Form 486 filing process and deadlines.

Mr. Ospina filed two Form 471s for the District for funding year 2014. The District received Funding Commitment Decision Letters (FCDLs)³ approving funding for FRNs 2703924, 2704784, and 2704877 prior to the 7/1/2014 start of the funding year and forwarded these FCDLs to Mr. Ospina. However, the District was unaware that Mr. Ospina failed to file the Form 486 by the 10/29/14 filing deadline prescribed by the 7/1/2014 Service Start Date for these three FRNs. The District notes that, although it has received and maintained file copies of SLD-generated correspondence (including the FCDLs for both FY 2014 Form 471s), it has no record of receiving the "Form 486 Urgent Reminder" letter which would have alerted it to Mr. Ospina's failure to file the Form 486.

Mr. Ospina filed a BEAR form for the first quarter of FY 2014 for FRN 2704784. The 11/13/2014 BEAR Notification Letter⁴ was received by the District and routinely handed to Mr. Ospina by the District's clerical staff who were unaware of the significance of its contents. Although Mr. Ospina was responsible to manage and comply with the E-rate process on behalf of the District, he did not take action in response to the letter's denial of BEAR reimbursement for Mr. Ospina's failure to file a Form 486 for FRN 2704784.

Mr. Ospina resigned from PCESC on 2/22/2015. Apparently just prior to his resignation Mr. Ospina attempted to file a BEAR form for Verizon Wireless for FRN 2704877 because on 2/25/2015, the District was informed by Verizon Wireless that a BEAR filed by Mr. Ospina in December of 2014 had been denied by SLD on 12/29/14 due to Mr. Ospina's failure to file a Form 486.⁵ On 2/26/15 this correspondence was forwarded by the District to Roberto Rubino at PCESC.⁶ Mr. Rubino quickly hired a consultant, eRate 360 Solutions, to take whatever steps were necessary to remedy the situation and get the District its E-rate reimbursements for FY 2014. On 3/3/2015 eRate 360 Solutions filed a Form 486 for FRNs 2703924, 2704784, and 2704877,⁷ which was approved by SLD shortly thereafter with the Service Start Dates for all three FRNs adjusted to 11/3/2014.

There is no waste, fraud, or abuse of E-rate program funds; the District was victimized by the failure of a consultant upon whom the District relied upon to meet an administrative

³ Funding Commitment Decision Letters (FCDLs) from Schools and Libraries Division, to Andres Ospina, consultant for Little Falls Twp. School District, re Form 471 Application Number 985116 and 991002, dated 5/15/2014 and 6/11/2014 respectively.

⁴ BEAR Notification Letter from Schools and Libraries Division, to Andres Ospina, consultant for Little Falls Twp. School District, re Form 472 Application Number 2106804, dated 11/13/14.

⁵ Email from Erate_bearforms@verizonwireless.com to Michael Leary (mleary@lfschools.org) re "Little Falls BOE FRN 2704877", dated 2/25/15.

⁶ Email from Nancy Panepinto (npanepinto@lfschools.org) to Roberto D. Rubino (PCESC) subject "E-Rate – Little Falls Board of Education" dated 2/26/2015.

⁷ FCC Form 486 # 1059753 for funding year 2014, posted by Little Falls Twp. School District on 3/3/2015.

deadline. Once the problem was recognized, the District acted promptly to have the error corrected. The District respectfully asks the SLD to restore the \$7,311.04 of denied funds, that the circumstances do not warrant such a harsh penalty.

Alaska Gateway School District, Tok, AK, et al:

The District, like many other small districts, is overwhelmed by the complex requirements of the E-rate process. At the same time, given the difficult economic conditions, the District is unable to hire a full-time staff person to manage this process and complete all of the filings the E-rate process requires. The District resolved this dilemma by relying upon a third party with the requisite expertise, specifically the PCESC.

Unfortunately, the person assigned by PCESC, Mr. Ospina, failed to file an administrative form. We complied with the bidding, vendor selection, and funding request phases – processes in which the District staff participated as required – only to be thwarted by failure of our outside consultant to perform as required.

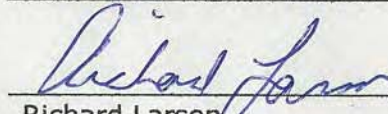
In its *Alaska Gateway* ruling the FCC clearly took this very sort of situation into account:

As we recently noted in *Bishop Perry Middle School*, a departure from required filing deadlines may be warranted upon careful review of the Petitioner's case and when doing so will serve the public interest. Generally, these applicants claim that staff mistakes or confusion, or circumstances beyond their control resulted in missing the FCC Form 486 deadline. We note that the primary jobs of most of the people filling out these forms include school administrators, technology coordinators and teachers, as opposed to staff dedicated to pursuing federal grants, especially in small school districts. Even when a school official becomes adept at the application process, unforeseen events or emergencies may delay filings in the event there is no other person proficient enough to complete the forms. **Furthermore, some of the errors were caused by third parties or unforeseen events and therefore were not the fault of the applicants.** Given that the applicants missed a USAC procedural deadline and did not violate a Commission rule, we find that the complete rejection of each of these applications is not warranted.⁸

The District respectfully contends that the FCC's recognition of the difficulties faced by small districts such as ours ought to be applied to this particular situation. We ask the SLD to apply the *Alaska Gateway* ruling regarding the administrative deadline for submission of the Form 486 and accept the Service Start Date of 7/1/2014 on Form 486 1059753, thereby restoring full funding of \$21,933.12 to FRNs 2703924, 2704784, and 2704877.

The District appreciates the SLD's consideration of this appeal. We are available to respond to questions or to provide any further information requested by the SLD.

Authorized signature for this Appeal⁹


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⁸ DA 06-1871, September 14, 2006, "*Alaska Gateway School District, Tok, AK, et al.*", File Nos. SLD-412028, et al., CC Docket No. 02-6; p. 5.

⁹ "Letter of Agency" from Michael Leary, Interim Business Administrator of Little Falls Township School District, authorizing employees of eRate 360 Solutions, LLC, to perform e-rate services on behalf of the District.

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Modernizing the E-rate)	WC Docket No. 13-184
Program for Schools and Libraries)	

REPORT AND ORDER AND FURTHER NOTICE OF PROPOSED RULEMAKING

Adopted: July 11, 2014

Released: July 23, 2014

Comment Date: September 15, 2014

Reply Comment Date: September 30, 2014

By the Commission: Chairman Wheeler and Commissioner Clyburn issuing separate statements;
Commissioner Rosenworcel approving in part, concurring in part and issuing a statement; Commissioners
Pai and O’Rielly dissenting and issuing separate statements.

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Commission review of such decisions, as provided in the Commission's rules.⁶¹² This rule change will become effective 30 days after the publication of this Report and Order in the Federal Register.

251. Currently, any party may seek Commission review of an action taken by USAC without first seeking review of that decision by USAC.⁶¹³ One result of the current system is a growing number of E-rate appeals with the Commission. While we have made a concerted effort to reduce the backlog of appeals, a backlog remains and we continue to receive numerous appeals on a monthly basis.⁶¹⁴ The appeals backlog is further exacerbated by the fact that aggrieved parties often decline to seek review from USAC and appeal directly to the Commission.⁶¹⁵

252. We find that requiring parties to first file appeals of USAC decisions with USAC itself before seeking Commission review will improve efficiency in the appeals process. It will reduce the number of appeals coming to the Commission, and allow USAC an initial opportunity to correct any of its own errors, and to receive and review additional information provided by aggrieved parties without having to involve the Commission staff.⁶¹⁶ We remind parties filing an appeal with USAC to follow USAC's appeals guidelines and provide USAC with all relevant information and documentation necessary for USAC to make an informed decision on an appeal.⁶¹⁷ **USAC cannot waive our rules; therefore parties seeking only a waiver of our rules are not governed by this requirement, but instead must seek relief directly from the Commission or the Bureau.**⁶¹⁸

F. Directing USAC to Adopt Additional Measures to Improve the Administration of the E-rate Program

253. We adopt a number of additional measures to ease the burden upon applicants, expedite commitments, and ensure that all applicants receive complete and timely information to help inform their

⁶¹² See 47 C.F.R. §§ 54.719-54.725 (rules governing review of decisions issued by USAC). While the *E-rate Modernization NPRM* sought general comment on ways to improve and streamline the Commission's E-rate appeal process, the procedural rule change adopted herein is not subject to the Administrative Procedures Act notice and comment requirement as it does not alter the rights or interests of parties. See 5 U.S.C. § 553(b) (providing exceptions to the general notice and comment requirement for rules of agency organization, procedure or practice); *JEM Broadcasting v. FCC*, 22 F.3d 320, 326 (D.C. Cir. 1994) (quoting *Batterton v. Marshall*, 648 F.2d 694, 707 (D.C. Cir. 1980)) (holding that the "critical feature" of the procedural exception "is that it covers agency actions that do not themselves alter the rights or interests of parties, although it may alter the manner in which the parties present themselves or their viewpoints to the agency").

⁶¹³ 47 C.F.R. §§ 54.719, 54.722-54.723.

⁶¹⁴ See *E-rate Modernization NPRM*, 28 FCC Rcd at 11376, para. 266.

⁶¹⁵ See *Report on FCC Process Reform* at 1417, page 77.

⁶¹⁶ See *id.*; SECA Comments on the Reform Report, GN Docket No. 14-25, at 2. But see PAIU NPRM Comments at 3 (opposing efforts to modify parties' right to appeal, but suggesting that the Commission delegate authority to USAC to decide appeals for which the Commission has previously opined). Taking this action does not deny anyone of the right to Commission review; it simply changes the process by which appeals are handled, with ultimate review by the Commission still available.

⁶¹⁷ See USAC, Schools and Libraries Program, Program Integrity, <http://www.usac.org/about/about/program-integrity/> (last visited June 18, 2014). USAC will generally accept new information and documentation on appeal unless the documentation provided on appeal contradicts information contained in the original file and the applicant is unable to resolve the discrepancy; the documentation submitted on appeal is not the original documentation and was created in response to a USAC request during the appeal review; or the applicant was not working with USAC in good faith. See USAC, Schools and Libraries Program, Program Integrity, <http://www.usac.org/sl/about/program-integrity/appeals-guidelines.aspx> (last visited June 18, 2014).

⁶¹⁸ See 47 C.F.R. § 1.3 (providing that the Commission may waive its rules on its own motion or on petition if good cause is demonstrated); 47 C.F.R. § 0.91(b) (delegating authority to the Bureau to act on requests for waiver of the Commission's rules). USAC does not have authority to act on waiver requests under the Commission's rules.



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

DA 15-1105

Released: September 30, 2015

STREAMLINED RESOLUTION OF REQUESTS RELATED TO ACTIONS BY THE UNIVERSAL SERVICE ADMINISTRATIVE COMPANY

CC Docket No. 96-45
CC Docket No. 97-21
CC Docket No. 02-6
WC Docket No. 06-122

Pursuant to our procedure for resolving requests for review, requests for waiver, and petitions for reconsideration of decisions related to actions taken by the Universal Service Administrative Company (USAC) that are consistent with precedent (collectively, Requests), the Wireline Competition Bureau (Bureau) grants, dismisses, or denies the following Requests.¹ The deadline for filing petitions for reconsideration or applications for review concerning the disposition of any of these Requests is 30 days from release of this Public Notice.²

Schools and Libraries (E-rate) **CC Docket No. 02-6**

Dismiss³

Little Falls Township Public School, Application Nos. 985116, 991002, Request for Waiver, CC Docket No. 02-6 (filed May 26, 2015)

Mound City Public Library, Application No. 886740, Request for Review, CC Docket No. 02-6 (filed Jan. 20, 2015)

Dismiss as Moot⁴

¹ See *Streamlined Process for Resolving Requests for Review of Decisions by the Universal Service Administrative Company*, CC Docket Nos. 96-45 and 02-6, WC Docket Nos. 02-60, 06-122, 08-71, 10-90, 11-42, and 14-58, Public Notice, 29 FCC Rcd 11094 (Wireline Comp. Bur. 2014). Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of USAC may seek review from the Commission. 47 C.F.R. § 54.719(c).

² See 47 C.F.R. §§ 1.106, 1.115; see also 47 C.F.R. § 1.4(b)(2) (setting forth the method for computing the amount of time within which persons or entities must act in response to deadlines established by the Commission).

³ See, e.g., *Request for Review of a Decision of the Universal Service Administrator by La Canada Unified School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 30 FCC Rcd 4729, para. 2 (Wireline Comp. Bur. 2015) (dismissing an appeal that properly belongs before USAC pursuant to Commission rules).

Richard Larson

From: Mukhopadhyay, Sumita <Sumita.MUKHOPADHYAY@sl.universalservice.org>
Sent: Wednesday, December 16, 2015 3:21 PM
To: 'Richard Larson'
Subject: RE: Error in Appeal ADLs for two appeals- Gilroy Unified School District & Little Falls Township School
Attachments: Gilroy_USAC-Appeal_471-830048_ADL_11-19-15.pdf; LittleFalls_FY17_471s_985116-991002_USAC-Appeal_ADL_11-19-15.pdf; Gilroy_USAC-Appeal_471-830048_letter_9-25-15.pdf; LittleFalls_FY17_471s_985116-991002_USAC-Appeal-Ltr_10-28-15.pdf

Richard

We have received USAC guidance on this. Based on the fact that FCC has already made their decision and did not Remand the appeal to us, we are unable to process this.

Thanks
Sumita.

From: Richard Larson [<mailto:rlarson@erate360.com>]
Sent: Monday, November 23, 2015 3:25 PM
To: Mukhopadhyay, Sumita
Subject: Error in Appeal ADLs for two appeals

Sumita –

I believe there is an error in the two appeal ADLs I just received from your department (please see the attached PDFs):

- Gilroy Unified School District (BEN 144283) – Form 471 # 830048 – filed 9/25/15
- Little Falls Township School Di (BEN 122823) – Form 471 #s 985116 & 991002 – filed 10/28/15

The stated reason for both appeals being denied is “... *FCC rules require applicants to postmark appeals within 60 days of the date on the decision letter being appealed.*” In each case, the appeal was originally was timely-filed with the FCC in the belief that the appeal was a Request for Waiver and therefore should not be filed with SLD but instead should be filed with the FCC. The Gilroy USD appeal requested a Waiver of the Form 486 filing deadline, and the Little Falls appeal requested a Waiver of the Invoice filing deadline (please see the attached appeal letters).

However, for reasons not stated by the FCC in its ruling, both Requests for Waiver were dismissed by the FCC with the terse statement that each of these appeals “*properly belongs before USAC pursuant to Commission rules.*”

I do not believe SLD’s 60-day clock should be calibrated on the original denial documents, but rather against the FCC’s 9/30/2015 DA 15-1105. We appealed to the FCC in the good faith belief that we were complying with recently issued FCC guidelines on the filing of appeals. We re-flied these appeals with SLD in compliance with the FCC’s instructions on DA 15-1105. We believe that it is an error for the SLD to ignore those instructions from the FCC, and ask that you withdraw these two ADLs and judge each of these appeals on its merits.

Thank you for your consideration in this matter.

Sincerely,

Richard Larson

Senior Compliance Officer



eRate 360 Solutions, LLC

322 Route 46W, Suite 280W

Parsippany, NJ 07054

rlarson@erate360.com

Toll Free: 888-535-7771 ext.102

Cell: 973-452-8718

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<http://www.erate360.com/>



Letter of Agency

Little Falls Board of Education
Billed Entity Number: 122823

Letter of Agency For FY 17 (2014 - 2015)

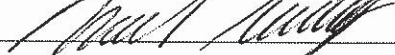
I hereby authorize eRate 360 Solutions, LLC and its employees: Keith C. Oakley, Steve Tenzer, Rich Larson, Carlos Alvarez, Matt Hetman, Fred Josephs, Bert Garofano, and John Harvey to submit FCC Form 470, FCC Form 471, and other E-rate forms, and to submit various change applications such as SPIN changes and service substitutions, to the Schools and Library Division of the Universal Service Administrative Company on behalf of **Little Falls Board of Education** for all eligible services outlined in the most current "Eligible Services List" published by USAC. I understand that, in submitting these forms on our behalf, you are making certifications for **Little Falls Board of Education**. By signing this Letter of Agency, I make the following certifications

- (a) I certify that **schools in our district** are all schools under the statutory definitions of elementary and secondary schools found in the No Child Left Behind Act of 2001, 20 U.S.C. §§ 7801(18) and (38), that do not operate as for-profit businesses and do not have endowments exceeding \$50 million.
- (b) I certify that our **school district** has secured access, separately or through this program, to all of the resources, including computers, training, software, internal connections, maintenance, and electrical capacity, necessary to use the services purchased effectively. I recognize that some of the aforementioned resources are not eligible for support. I certify that to the extent that the Billed Entity is passing through the non-discounted charges for the services requested under this Letter of Agency, that the entities I represent have secured access to all of the resources to pay the non-discounted charges for eligible services from funds to which access has been secured in the current funding year.
- (c) I certify that the services the district purchases at discounts provided by 47 U.S.C. § 254 will be used solely for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value, except as permitted by the rules of the Federal Communications Commission (Commission or FCC) at 47 C.F.R. § 54.500(et seq.).
- (d) I certify that our **school district** has complied with all program rules and I acknowledge that failure to do so may result in denial of discount funding and/or cancellation of funding commitments. I acknowledge that failure to comply with program rules could result in civil or criminal prosecution by the appropriate law enforcement authorities.
- (e) I acknowledge that the discount level used for shared services is conditional, for future years, upon ensuring that the most disadvantaged schools and libraries that are treated as sharing in the service, receive an appropriate share of benefits from those services.

- (g) I certify that I will retain required documents for a period of at least five years after the last day of service delivered. I certify that I will retain all documents necessary to demonstrate compliance with the statute and Commission rules regarding the application for, receipt of, and delivery of services receiving schools and libraries discounts, and that if audited, I will make such records available to the Administrator. I acknowledge that I may be audited pursuant to participation in the schools and libraries program.
- (h) I certify that I am authorized to order telecommunications and other supported services for the eligible entity(ies) covered by this Letter of Agency. I certify that I am authorized to make this request on behalf of the eligible entity(ies) covered by this Letter of Agency, that I have examined this Letter, that all of the information on this Letter is true and correct to the best of my knowledge, that the entities that will be receiving discounted services under this Letter pursuant to this application have complied with the terms, conditions and purposes of the program, that no kickbacks were paid to anyone and that false statements on this form can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. §§ 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. § 1001 and civil violations of the False Claims Act.
- (i) I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program. I will institute reasonable measures to be informed, and will notify USAC should I be informed or become aware that I or any of the entities, or any person associated in any way with my entity and/or the entities, is convicted of a criminal violation or held civilly liable for acts arising from their participation in the schools and libraries support mechanism.
- (j) I certify, on behalf of the entities covered by this Letter of Agency, that any funding requests for internal connections services, except basic maintenance services, applied for in the resulting FCC Form 471 application are not in violation of the Commission requirement that eligible entities are not eligible for such support more than twice every five funding years beginning with Funding Year 2005 as required by the Commission's rules at 47 C.F.R. § 54.506(c).
- (k) I certify that, to the best of my knowledge, the non-discount portion of the costs for eligible services will not be paid by the service provider. I acknowledge that the provision, by the provider of a supported service, of free services or products unrelated to the supported service or product constitutes a rebate of some or all of the cost of the supported services.
- (l) I certify that I am authorized to sign this Letter of Agency and, to the best of my knowledge, information, and belief, all information provided to **eRate 360 Solutions, LLC** for E-rate submission is true.

District: Little Falls Board of Education

Date: 3/3/2015

Signature: 

Printed Name: MICHAEL LEARY

Title: INTERIM BA/BS